



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 15, 1996

Mr. Gary W. Smith  
City Attorney  
P.O. Box 1049  
Greenville, Texas 75403-1049

OR96-2126

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101714.

The Greenville Police Department (the "department") received a request for all offense and information including pictures for two named individuals including the requestor herself. You state that you will release most of the information. You claim, however, that some of the information is excepted from required public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). In this instance, the requestor asks for all information concerning a certain person. Because the requestor has asked for all information of a named individual, we believe that this person's right to privacy has been implicated. Thus, where the named individual is a possible suspect, we conclude that the department must withhold this information under section 552.101 of the Government Code. *See id.*; *see also* Gov't Code § 411.106(b).<sup>1</sup> We have marked the information that must be withheld.

We note, however, that some of the requested information does not involve the

---

<sup>1</sup>Because we make a determination under *Reporter's Committee*, we need not address your other arguments under section 552.101 or 552.108 at this time.

named individual as a possible suspect or only involves the requestor. This information is not deemed confidential under *Reporter's Committee*. See Gov't Code § 552.023(a) (person has a right of access to information that relates to that person and is protected from disclosure by laws intended to protect that person's privacy interests). Thus, we will consider your arguments against disclosure of this information. You first argue that the records may contain confidential criminal history record information ("CHRI"). Generally, such information is confidential and not subject to disclosure. Federal regulations prohibit the release of CHRI maintained in state and local CHRI systems to the general public. See 28 C.F.R. § 20.21(c)(1) ("Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given."), (2) ("No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself."). Section 411.083 provides that any CHRI maintained by the Department of Public Safety ("DPS") is confidential. Gov't Code § 411.083(a). Similarly, CHRI obtained from the DPS pursuant to statute is also confidential and may only be disclosed in very limited instances. *Id.* § 411.084; see also *id.* § 411.087 (restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Therefore, if any CHRI is in your possession and it falls within the ambit of these state and federal regulations, you must withhold the CHRI from the requestor.

Lastly, you contend that under section 51.14(d) of the Family Code, some of the information is confidential because it involves juvenile suspects. You have highlighted this information in blue. Section 51.14(d) of the Family Code was repealed by the Seventy-fourth legislature. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2590 (current version at Family Code § 58.007 *et seq.*). However, the repealing bill provides that "[c]onduct that occurs before January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose." *Id.* § 106, 1995 Tex. Gen. Laws at 2591; Open Records Decision No. 644 (1996) at 5. The requested reports involve juvenile conduct that occurred before January 1, 1996.

At the time the conduct occurred, the applicable law in effect was Family Code section 51.14 which provided, in pertinent part:

(d) Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public.

Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852, *repealed by* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2590. In Open Records Decision No. 181 (1977) at 2, this office held that former section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. See also Open Records Decision No. 394 (1983) at 4-5 (applying former

Fam. Code § 51.14(d) to "police blotter" and related information). You do not indicate that the offense reports at issue here relate to charges for which the city transferred the juvenile under section 54.02 of the Family Code<sup>2</sup> to a criminal court for prosecution, or that article 15.27 of the Code of Criminal Procedure<sup>3</sup> applies. Moreover, you state that none of the exceptions to former section 51.14(d) apply to the requestor. See Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852 (repealed 1995) (formerly Fam. Code § 51.14(d)(1), (2), (3)). Accordingly, we conclude that the department must withhold the juvenile records that are marked in blue under section 552.101 of the Government Code as information deemed confidential by law.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 101714

Enclosures: Submitted documents

cc: Ms. Kendra Harrison  
3320 Templeton  
Greenville, Texas 75403  
(w/o enclosures)

---

<sup>2</sup>Act of May 25, 1973, 63d Leg., R.S., ch. 544, § 1, 1973 Tex. Gen. Laws 1460, 1476-77, *amended by* Act of May 19, 1975, 64th Leg., R.S., ch. 693, §§ 15-16, 1975 Tex. Gen. Laws 2152, 2156-57 (adding subsecs. (m), (j), (k), (l)), *amended by* Act of May 8, 1987, 70th Leg., R.S., ch. 140, §§ 1-3, 1987 Tex. Gen. Laws 309 (amending subsecs. (a), (h), (j)).

<sup>3</sup>Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 1, 1993 Tex. Gen. Laws 1850-51.